

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

FILED

2009 SEP 30 PM 4:46

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY  DEPUTY

NORMA BEATRICE,

Plaintiff,

v.

HOMEWARD BOUND, INC.,

Defendant.

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EP-09-CA-351-FM

**ORDER REMANDING CASE FOR LACK OF SUBJECT MATTER JURISDICTION**

On this day, the Court *sua sponte* considered Homeward Bound, Inc.'s ("Defendant") "Notice of Removal" [Rec. No. 1], filed September 25, 2009. Defendant avers the Court has subject matter jurisdiction over the above-captioned cause because Norma Beatrice's ("Plaintiff") "Plaintiff's Original Petition" ("Petition") "contains a claim arising under federal law pursuant to the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12112, *et seq.*"

Upon review of Plaintiff's Petition, however, the Court finds only that Plaintiff has alleged a cause of action under Texas law for discrimination based on her disability and retaliation. Specifically, Plaintiff alleges Defendant discriminated against her in violation of section 21.051 of the Texas Labor Code. Plaintiff does cite to "42 U.S.C. § 12112(d)," but only with respect to section 21.001(3) of the Texas Labor Code, which states

The general purposes of this chapter are to:

....  
(3) provide for the execution of the policies embodied in Title I of the Americans with Disabilities Act of 1990 and its subsequent amendments (42 U.S.C. Section 12101 *et seq.*).

In citing 42 U.S.C. § 12112(d), Plaintiff was referring to the specific policy implicated through section 21.001 of the Texas Labor Code.

Because Plaintiff's Petition only alleges state law claims, the Court does not have subject matter

jurisdiction over the above-captioned cause. In the interest of judicial economy and as a cost-saving measure, the Court *sua sponte* concludes it should, and hereby does, **REMAND** this matter to state court. The Clerk of the Court is instructed to **CLOSE** this case.

**SO ORDERED.**

**SIGNED** this 30 day of **September, 2009.**

A handwritten signature in black ink, appearing to read 'Frank Montalvo', written over a horizontal line.

**FRANK MONTALVO**  
**UNITED STATES DISTRICT JUDGE**